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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,431

01/19/2006

Yoshimichi Kawai

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10/07/2008

KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK, NY 10004

EXAMINER

HOLLOWAY, JASON R

ART UNIT

PAPER NUMBER

4165

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/565,431	<b>Applicant(s)</b> KAWAI ET AL.	
	<b>Examiner</b> JASON HOLLOWAY	<b>Art Unit</b> 4165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☒ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1-19-2006 and 4-23-2007</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This communication is a first Office Action Non-Final rejection on the merits.

Claims 1-6 are currently pending and have been considered below.

#### ***Drawings***

1. Figures 10(a), 10(b), 11(a), and 11(b) should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Specification***

2. The disclosure is objected to because of the following informalities: On page 10 line 22, the word "protruding" should be changed to the word --protrude--.

Appropriate correction is required.

#### ***Claim Objections***

3. Claim 4 is objected to because of the following informalities: In line 3 the phrase "in that in which" should be changed to --in which--. Appropriate correction is required.
5. Claim 6 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper

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dependent form, or rewrite the claim(s) in independent form. The Method claim 6 dependent from claim 1 which a product therefore does not further limit the parent claim 1.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Regarding claim 5**, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

**Regarding claim 6**, the phrase "characterized by erecting through vertical studs continuing to an upper story are erected on the ground." Is indefinite because it is unclear what is being erected on the ground because the sentence is improper.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Perrin (5,867,964).

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**Regarding claims 1 and 6,** Perrin teaches constructing a structural framework by assembling vertical frame studs (4, 48) and wall panels (2) erected on a foundation (abstract lines 12-14) and a floor panel (54), characterized in that the vertical frame studs provided at intersections of the wall panels and corners are through studs (4, 48) continuing to upper stories (figures 4, 14, 15), the wall panels (2) are prepared by attaching a face member (2) to a wall frame (24) preparing by assembling light gage channels made from sheet steel into a rectangular form (figures 1-10; column 3 lines 46-50), and the walls (2) of an upper story (2) are constructed by connecting the wall panels (2) for the upper story (see figure 15) after the walls (2) of a lower story have been constructed by connecting the wall panels for the lower story to said through vertical frame studs (48).

**Regarding claim 2,** Perrin teaches girder walls and party walls (figure 14) are constructed by placing said through vertical frame studs (48) in the thickness of the wall panels (2) (figure 1) by forming the vertical frame studs (4, 48) into a rectangular cross section and joining the wall panels (2) to all sides of the rectangle by means of fasteners (as illustrated in figures 1, 4, 14, and 15).

**Regarding claim 4,** Perrin teaches the through vertical frame studs (4, 48) are made of steel sections, wood or steel-reinforced concrete (column 3 lines 47-50).

**Regarding claim 5,** Perrin teaches the vertical frame studs (4, 48) and wall panels (2) are joined by using fasteners such as drill screws, bolts and one-side bolts (column 6 lines 34-43).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perrin (5,867,964) in view of diGirolamo et al (5,113,631).

**Regarding claim 3**, Perrin teaches the wall panels (2) to be attached to the through vertical frame studs (4, 48) are disposed along the four sides of a rectangle that constitutes a room (figures 11, 14), the floor plate (54) is attached to floor joists (58, 60)

However, Perrin fails to explicitly disclose the upper edges of the wall panels of the lower story on two opposite sides are positioned lower than the upper edges of the wall panels of the lower story on the other two opposite sides, and two opposite sides of a floor panel formed by attaching a floor plate to floor joists are supported on the upper end of the two lower wall panels on two opposite sides.

diGirolamo et al. teaches a structural lightweight steel framing system where the upper edges of the wall panels of the lower story on two opposite sides are positioned lower than the upper edges of the wall panels of the lower story on the other two opposite sides, and two opposite sides of a floor panel formed by attaching a floor plate to floor joists are supported on the upper end of the two lower wall panels on two opposite sides (as illustrated in figure 18; the examiner construes the layout for the

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remaining unseen two wall sides follows the same design as figure 18, which illustrates the wall in the foreground as being higher than the wall which supports the floor 220).

Therefore, from the teaching of diGirolamo et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the flooring setup of Perrin to include the higher walls on one side and lower walls on the other side as taught by diGirolamo et al. in order to shorten construction time by not having to connect the floor slab to all four walls of the structure.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Parker et al. (6,625,937) teaches studs extending through multiple floors and party walls.

de Quesada (6,298,617) teaches high rise buildings with steel construction.

Goodson, Jr. (5,514,950) teaches a multileve building framing system with through studs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON HOLLOWAY whose telephone number is (571) 270-5786. The examiner can normally be reached on M-F 8:30-6; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on 571-272-6782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JASON HOLLOWAY  
Examiner  
Art Unit 4165

JH

/Lynda Jasmin/  
Supervisory Patent Examiner, Art Unit 4165